REMARKS

In accordance with the foregoing, claims 2, 4, 5, 6, 10, 11, 17, and 21 are amended and new claim 22 is presented. No new matter is being presented, and approval and entry are respectfully requested.

Applicant points out that the Office Action Summary sheet indicates claims 12-14 are withdrawn from consideration. Applicant points out that in item 1 of the detailed action the Examiner asserts:

> Applicant's election without traverse of claims 1, 2, 4-6, 8-11, 15-17 and 21 in the reply filed on 5/15/2007 is acknowledged. Accordingly, these claims have been withdrawn from consideration.

(Emphasis added, Action at page 2, line 3-5).

Applicant submits that the phrase "these claims have been withdrawn" is incorrect and could cause misunderstanding as claims 1, 2, 4-6, 8-11, 15-17 and 21 are pending and claims 12-14 withdrawn. Correction of the same is requested.

Claims 1-2, 4-6, 8-11, 15-17, 21, and 22 are pending and under consideration. Reconsideration is requested.

Claim Amendments

Independent claim 2 is amended herein to recite a system including "throughput of data of the client is changed corresponding to a priority of the client relative to that of another client (emphasis added)". Independent claims 6, 10-11, and 16-17 are similarly amended.

Support for the amendments is given, for example, in page 30, lines 12-20 and page 32, lines 10-15 of the specification.

Claim 4 is amended herein to recite a system that includes an idling device that performs an idling operation "corresponding to an idling time transmitted by said first transmitting module that is based on a resource assigned to the client, wherein said second transmitting module transmits the data after the idling operation is completed (emphasis added)."

Support for the amendment is found, for example, in Fig. 4 and page 30, line 24 - page 31 line 4 of the specification.

Claims 4, 5 and 7 are amended herein to correct a formality and change the terms "receiving device" to --first receiving module -- and " transmitting device" to --second transmitting module--.

No new matter is being presented, and approval and entry are respectfully requested.

Items 5-10: Rejection of claims 2, 6, 10-11, 16-17 and 21 under 35 U.S.C. §103(a) as being anticipated by Sridhar et al. (U.S.P. 6,266,701) in view of Dillon et at. (US 6,473,793).

Items 11-13: Rejection of claims 1, 4, 9, and 15 under 35 U.S.C. §103(a) as being unpatentable over Sridhar in view of combinations of Dillon and Toporek et al. (U.S.P. 6,460,285)

Items 14-15: Rejection of claims 5 and 8 under 35 U.S.C. §103(a) as being unpatentable over Sridhar in view of Dillon and Kirkby et al. (U.S.P. 6,671,285)

In items 5 -10 of the Office Action, the Examiner rejects independent claims 2, 6, 10-11, 16-17 and 21 under 35 U.S.C. §103(a) as being anticipated by Sridhar in view of Dillon. (Action at pages 3-9). In items 11-13 of the Office Action, the Examiner rejects dependent claims 1, 4, 9, and 15 under 35 U.S.C. §103(a) as being unpatentable over Sridhar in view of combinations of Dillon and Toporek. In items 14-15 of the Office Action, the Examiner rejects claims 5 and 8 under 35 U.S.C. §103(a) as being unpatentable over Sridhar in view of Dillon and Kirkby.

The rejections are traversed.

In support of the rejection of independent claims 2, 6, 10-11, 16-17 and 21 the Examiner relies on Dillon as teaching:

> changing a throughput of a client according to a priority (level of service) of the client . . . advantageous addition to the system disclosed by Sridhar since it would have allowed client throughput to be controlled based on a service level the client paid for. . . ensured that each client received the appropriate level of service.. . obvious . . . to change a throughput of the client corresponding to a priority of the client in order to ensure that each client receives the throughput corresponding to their level of service.

(Action at page 5).

I. Traverse Of Rejections Of Claims 1-2, 4-6, 8-11, 15-17, 21

Independent claim 2, as amended herein, recites a communicating system for relaying a communication between a server and a client including:

a) "a first receiving module capable of receiving data from a network . . . ;"

b) "a demultiplexing module capable of demultiplexing the received data;"

c) "a first converting module capable of converting a protocol of the demultiplexed data into the first protocol;"

d) "a first transmitting module capable of transmitting the data converted by said first converting device to the server;"

e) "a second receiving module . . . ;"

f) "a second converting module capable of converting the first protocol of the data received by the second receiving module into the second protocol;"

g) "a multiplexing module capable of multiplexing data of multiple connections converted by said second converting device so that a connection using the increased window size in the transport layer protocol level can be used continuously and the larger amount of data can be transmitted;" and

h) "a second transmitting module . . . ," and

i) "wherein a throughput of data of the client is changed corresponding to a priority of the client relative to that of another client (emphasis added).

Independent claims 6, 10-11, and 16-17, and 21, all as amended herein, recite similar subject matter.

Applicant submits that the art relied upon by the Examiner in support of the rejection, alone or in combination, does not teach, any changing of a throughput of data based on a priority of a client relative to that of another client.

By contrast, Dillon merely discloses:

> The throttling and UDP discard rates can be obtained by examining the user's service plan and the user's state. In order to make the throttling process fast and efficient and to add some hysteresis to the process, the user's state calculation is done only at periodic intervals. In a preferred embodiment, the interval is one minute.

(See, for example, col. 15, lines 15-20).

By contrast, Dillon further discloses:

> A step 1430 then compares the user's running average throughput to the user's throughput thresholds for his/her service plan. If the running average throughput is greater than the throughput thresholds, control is passed to step 1440. Step 1440 changes the user's state to throttle data throughput and reduce window size. If running average throughput is less than the throughput thresholds, control is passed to block 1450, which changes the user's state to reduce throttling of throughput and increase window size. . . control is passed to step 1460, which passes the data packet containing the request to data packet application servers 140 on routers via the Internet 128 and restarts the throttling process for the next user.

(Emphasis added, See, Fig. 14, and col. 16, lines 8-37).

That is, Dillon does not teach, any changing of a throughput of data based on a priority of a client relative to that of another client, but instead merely teaches a changing of throughput for an individual client based on that individual client's use of their service plan.

Even an *arguendo* combination of Sridhar in view of Dillon, or the other art relied on by the Examiner, merely teaches a changing of throughput for an individual client based on that individual clients use of their service plan and not relative to that of another client.

Applicant respectfully submits that the elements in combination do not merely perform the function that each element performs separately and that the results of the claimed combination were unexpected.

Further, one of understanding in the art would not modify or combine the art relied on by the Examiner to teach changing of throughput of priority of a client relative to that of another client.

Applicant respectively points out that the Examiner asserted in support of the rejection that, an *arguendo* modification is merely "an advantageous addition to the system disclosed by Sridhar since it would have allowed client throughput to be controlled based on a service level the client paid for." (Action at page 5).

That is, based on allowing a client to control what they pay for, and not based on what another client pays for.

Since features recited by each of the independent claims 2, 6, 10-11, 16-17 and 21 (thus respective dependent claims) recite features not taught by an *arguendo* combination of the art relied on by the Examiner the rejections should be withdrawn and claims 1-2, 4-6, 8-11, 15-17, 21 allowed.

II. Further Traverse of Claim 4

Dependent claim 4, as amended herein, recites an idling device that performs an idling operation "corresponding to an idling time transmitted by said first transmitting module that is based on a resource assigned to the client, wherein said second transmitting module transmits the data after the idling operation is completed (emphasis added)."

In support of the rejection of claim 4, the Examiner asserts Toporek teaches:

> use of a rate control module which determines whether to send data across the satellite link immediately, or to buffer it and deliver it at a later time . . . advantageous . . . to the system disclosed by Sridhar since it would have allowed the gateway to control the rate of transmission of data across the link, controlling congestion. . . .obvious . . . to use an idling device to perform an idling operation and transmit the data after the idling operation has completed, as a means to control congestion on the link.

(Action at page 10).

That is, the Examiner relies on Toporek for discussion of buffering as teaching an idling operation.

Applicant submits that Toporek does not teach an idling time transmitted by a first transmitting module that is based on a resource assigned to the client and a second transmitting

module that transmits data. By contrast, Toporek merely discloses:

> A rate control module 234 determines whether the information can be passed immediately to the satellite connection or be queued for later delivery.

(col. 10, lines 60-65).

Accordingly, even an *arguendo* modification of Sridhar, Dillon, and Toporek merely teaches a buffering or a queuing determining whether to transmit data or to buffer the data and not a transmission of an idling time based on a resource assigned by a client.

Since features recited by claim 4 are not taught by an arguendo combination of the art relied on by the Examiner the rejection should be withdrawn and claim 4 allowed.

Summary

Since features recited by each of the independent claims 2, 6, 10-11, 16-17 and 21 (and thus respective dependent claims) recite features not taught by an *arguendo* combination of the art relied on by the Examiner the rejections should be withdrawn and claims 1-2, 4-6, 8-11, 15-17, 21 allowed.

New Claim

New claim 22 recites features of the present invention in a different fashion.

Claim 22 recites a method of decreasing cost of a system for relaying communication between a plurality of servers and a plurality of clients including "disposing an agent relay device in a vicinity of each of the plurality of servers; decreasing a number of mirror servers in the system; and adjusting throughout of communication based on a priority of one of the plurality of clients with respect to another of the plurality of clients."

Support for new claim 22 is found, for example, in page 3, lines 5-8, page 7, lines 13-18, page 13, lines 1-7, and page 32, lines 1-5 of the specification.

No new matter is being presented, and approval and entry are respectfully requested. These, and other, features of claim 22 are submitted to be allowable for the recitations therein.

Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: October 25, 2007

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